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25 **UNITED STATES DISTRICT COURT**

26 **DISTRICT OF NEVADA**

27 BANK OF NEW YORK MELLON,  
28  
29 Plaintiff,

30 vs.

31 FIDELITY NATIONAL TITLE  
32 INSURANCE COMPANY,  
33  
34 Defendant.

Case No.: 2:20-CV-02124-RFB-BNW

**STIPULATION AND ORDER TO  
EXTEND DISCOVERY DEADLINES**

**(First Request)**

35 COMES NOW defendant Fidelity National Title Insurance Company (“Fidelity”) and  
36 plaintiff The Bank of New York Mellon (“BONY”) (collectively, the Parties), by and through  
37 their respective attorneys of record, hereby submit their Stipulation to Extend Discovery  
38 Deadlines by ninety (90) days in accordance with Local Rule 26-3 and Local Rule IA 6-1. The  
39 Parties are requesting an extension to the discovery deadlines to afford BONY additional time to

1 continue to produce its documents, including its loan file for the subject transaction and the file  
 2 from the underlying litigation. Based on the volume of the documents at issue, and the Parties'  
 3 desire to resolve certain pending discovery disputes without Court involvement, the Parties  
 4 request an additional ninety (90) days in order to complete discovery.

5 The request for an extension is supported by good cause in compliance with LR 26-3, has  
 6 been brought in good faith, is the first request for an extension of time to the discovery deadlines  
 7 and is not intended to cause delay.

#### 8 **A. STATEMENT SPECIFYING THE DISCOVERY COMPLETED**

9 The Parties conducted the FRCP 26(f) conference on February 19, 2021. Thereafter, the  
 10 Parties submitted their proposed Stipulated Discovery Plan and Scheduling Order on March 23,  
 11 2021 (ECF No. 21). On March 26, 2021 the Court entered the Scheduling Order (ECF No. 22),  
 12 setting the following deadlines:

- 13 • Discovery Cutoff: September 16, 2021
- 14 • Dispositive Motion Cutoff: October 18, 2021; and
- 15 • Pretrial Order Deadline: November 17, 2021, or 30 days after resolution of
- 16 dispositive motions

17 The Parties have completed the following discovery to date:

- 18 • Fidelity's Initial Disclosure of Witness and Documents, April 12, 2021;
- 19 • BONY's Initial Disclosure of Witness and Documents, April 12, 2021;
- 20 • BONY's First Supplemental Disclosure of Witness and Documents, May 3, 2021;
- 21 • BONY's Second Supplemental Disclosure of Witness and Documents, June 16,
- 22 2021;
- 23 • BONY's Third Supplemental Disclosure of Witness and Documents, June 16,
- 24 2021;
- 25 • Fidelity's Initial Expert Witness Disclosure with Report, July 19, 2021;

26 The following discovery is in progress:

- 27 • Fidelity's Subpoenas to Produce Documents, Information or Objects or to Permit
- 28 Inspection of Premises in a Civil Action to various third parties, notice of which

was provided to BONY on June 24, 2021;

- Fidelity's First Set of Requests for Production, Requests for Admission, and Interrogatories to BONY, served on July 6, 2021.
- BONY's document production.

**B. A SPECIFIC DESCRIPTION OF THE DISCOVERY THAT REMAINS TO BE COMPLETED**

The Parties need to conduct the following discovery:

- Final agreement on the terms of a Stipulated Protective Order and the Court's entry of the same;
- Deposition of FRCP 30(b)(6) Witness for BONY;
- Deposition of FRCP 30(b)(6) Witness for Fidelity;
- Deposition of various fact and expert witnesses; and
- Such other discovery that may be deemed necessary or appropriate.

**C. THE REASONS WHY THE DEADLINE WAS NOT SATISFIED OR THE REMAINING DISCOVERY WAS NOT COMPLETED WITHIN THE TIME LIMITS SET BY THE DISCOVERY PLAN**

BONY is still in the process of producing its documents to Fidelity, including its loan file for the subject transaction and its complete file for the underlying litigation. Additionally, BONY has not yet responded to Fidelity's first set of interrogatories, requests for admissions, and requests for production. The parties seek a 90-day extension of their existing discovery deadlines so that Fidelity can use the additional documents that BONY intends to produce in depositions of percipient witnesses. In accordance with Local Rule 26-3, good cause exists for an extension to the discovery deadlines in order to allow the Parties to complete discovery and resolve any disputes following the entry of a stipulated protective order in this case.

**D. A PROPOSED SCHEDULE FOR COMPLETING ALL REMAINING DISCOVERY**

The Parties request that the current Scheduling Order (ECF No. 22) be extended as follows:

1. Discovery Cutoff: currently September 16, 2021, **desired December 17, 2021;**
2. Dispositive Motion Cutoff: currently October 18, 2021, **desired January 14, 2022;** and,
3. Last Day to File Joint Pre-Trial Order: currently November 17, 2021, **desired February 18, 2022.** In the event dispositive motions are filed, the date for filing the joint pretrial order shall be suspended until thirty (30) days after a decision of the dispositive motions. The disclosure required by FRCP 26(a)(3), and any objections thereto, shall be included in the pretrial order.

**IT IS SO STIPULATED.**

Dated: August 20, 2021

SINCLAIR BRAUN LLP

By: /s/-Kevin S. Sinclair  
KEVIN S. SINCLAIR  
Attorneys for Defendant  
FIDELITY NATIONAL TITLE INSURANCE  
COMPANY

Dated: August 20, 2021

AKERMAN LLP

By: /s/-Ariel E. Stern  
ARIEL E. STERN  
Attorneys for Plaintiff  
THE BANK OF NEW YORK MELLON

**IT IS SO ORDERED.**

DATED: August 23, 2021.

  
THE HON. BRENDA WEKSLER  
UNITED STATES MAGISTRATE JUDGE